

REMARKS

Claims 1, 3-5, 9-16, 18, 21-24, 26-31, 34, and 36-40 are currently pending in the present application, with Claims 1 and 24 being amended. Reconsideration and reexamination of the claims are respectfully requested.

The Examiner rejected Claims 1-3, 10-16, 18, 21-24, 26-31, 34, 37, and 38 under 35 U.S.C. 102(b) as being unpatentable over Goldhaber (U.S. patent no. 5,794,210) in view of Official Notice (ON1), wherein Claims 1, 16, and 24 are independent claims. This rejection is respectfully traversed.

As previously communicated, the present invention is directed to a method and system for Internet distribution of media products, such as entertainment or informational content (e.g., articles/report, video, or a sound file such as a MP3 music file), that are protected by intellectual property rights (e.g., copyright protection). Specifically, the present invention provides to consumers an alternative to paying for media products desired by the consumers by offering to consumers an option to view a sponsored message in exchange for immediately receiving the product.

As the Examiner acknowledged, Goldhaber does not contain any disclosure or suggestion of distributing media products. In fact, Goldhaber does not teach or suggest distributing products of any kind. Rather, Goldhaber is directed to the concept of "attention brokering," wherein consumers are financially compensated for viewing advertisements. "Attention brokering," as defined by Goldhaber, is the business of brokering the buying and selling of the "attention" of users (see Abstract). The stated purpose of attention brokerage is to "allow advertisers to compete for the attention of a particular consumer or group of consumers -- thereby maximizing efficiency and creating value." (Col. 4, lines 44-46). However, the Examiner took Official Notice (ON1) that it would have been obvious to one skilled in the art at the time of the present invention to give away intellectual property products as target items for attention brokerage. Applicant respectfully disagrees with the Examiner.

The present invention is not directed to "attention brokerage." Rather, the present invention is directed to methods for marketing and pushing (e.g., distributing) valuable products (media products in particular). As the Examiner can appreciate, timing and ease of a purchase transaction can be important aspect of marketing strategy. And, as any Internet retailer can appreciate, there are many potential "points of failures" attributable by consumers for either causing them to lose interest or otherwise decide against going through with the purchase of a product. The present invention is an effective method of distributing a product whereby the consumer has an alternative of viewing a sponsored message in exchange for viewing the product. The present invention takes advantage of a situation where the consumer has already shown an interest in the product being distributed, and effectively sells the product by shifting the purchase price to a sponsoring advertiser.

This fundamental principle of the present invention is wholly different from that of Goldhaber, which in contrast discloses a platform by which a commodity of "attention value" can be accumulated and spent. Goldhaber does not disclose any method for distributing products. As the Examiner can surely appreciate, distribution of monetary compensation (cyber or otherwise) is NOT the equivalent of marketing and selling products. Applicant respectfully submit that the Examiner's ON1 is only conceivable in hindsight of the present application, and that it would not have been obvious to one skilled in the art at the time of the present invention to distribute valuable, for purchase, products via sponsored messages. As the Examiner is well aware, official notices, though may be relied upon, are rare in legitimate application and must be supported (see M.P.E.P. 2144.03). If the Examiner insisting on taking Official Notice without evidence, the Examiner must provide explicit reasoning for supporting the position beyond mere conclusory remarks. In this regard, Applicant traverses the Examiner's ON1, and respectfully submit that Claims 1-3, 10-16, 18, 21-24, 26-31, 34, 37, and 38 are not obvious in view of Goldhaber.

Applicant notes that Claims 1 and 24 have been amended to further clarify the recited invention.

The Examiner rejected dependent Claims 4, 5, 8, 35, and 36 under 35 U.S.C. 103(a) as being unpatentable over Goldhaber in view of ON1 and further in view of Wiser et al. (USP 6,385,596). This rejection is respectfully traversed.

As discussed above, Goldhaber does not contain any disclosure or suggestion of distributing media products in response to a consumer viewing a sponsored message. Wiser fails to make up for the deficiencies of Goldhaber. Rather, Wiser is simply directed to a secured online distribution of music. Again, for the same reasons stated above, Applicant respectfully traverses the Examiner's Official Notice, and respectfully submits that Claims 4, 5, 8, 35, and 36 are not obvious in view of Goldhaber and Wiser.

The Examiner rejected dependent Claims 9, 33, 35 and 39 under 35 U.S.C. 103(a) as being unpatentable over Goldhaber in view of ON1 and further in view of Official Notice 2 (ON2). This rejection, along with both of the Official Notices, is respectfully traversed for the same reasons provided above.


In view of the foregoing, Applicant respectfully submits that all of the pending claims are in condition for allowance. An early allowance is solicited. If the Examiner believes it would further advance the prosecution of the present application, he is respectfully requested to contact the undersigned attorney.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 513612000100.

Respectfully submitted,

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